

A NEW-YEARS-GIFT for the LORD CHIEF in JUSTICE *Scilicet*Being some Remarks on his Speech made the First day of *Michaelmas* Term, 1679.

A L S O,

An Abstract of the Oath of a Judge, *Indorso Claus de Anno 20. Edv. Tertii pa. prima.*

**Y**E shall Swear that well and truly ye shall serve our Sovereign Lord the King, and his People, in the Office of a Justice--- and that ye shall do equal Law and Execution of Right to all the Kings Subjects, Rich and Poor, without having regard to any Person, and that ye shall not take by you, or by any other, privily, nor in part any Gift or Reward in Gold or Silver, nor any other thing the which might turn to profit, but Meat or Drink, and that of little value of any man that hath Plea or Process hanging before you, &c.--- nor after for the same Cause, and that ye take no Fees nor Robe of any Person great or small in any Case, so long as ye be Justice, but of the King himself, &c.--- and that ye shall not delay any person of Common Right for the Letters of the King, or of any other Person, nor for any Cause, &c.--- and proceed to do the Law, notwithstanding those Letters, &c.

When I heard his Lordship after one so great an adventure, [of acquitting Sir George Wakeman in so Capital a Crime, as being hired and receiving part of the Moneys to Poyson His Sacred Majesty,] should make another adventure of a Speech to justify it, I stood amazed at his confidence instead of admiring his Justice, and was apt to conclude that he vainly thought, we never should have another Session of Parliament, as also that his Lordship forgot, or never read of *Empson* and *Dudley*.

His Speech is no better than a Rhetorical paint, a little the handfomer to set of an ugly Face, I perceive by it his Lordship lives far from Neighbors, or at best is very loath to give himself an ill word, nor cry *sinking Fish*.

He tells us it was to Vindicate himself and his reputation, but never was poor Judge so mistaken himself, or otherwise did so Foppishly endeavor to delude his Hearers, for so far is he from making any Vindication, that he trembles to take the least notice of, or answer any particular objection made against him, wherein he horribly stands in need of a defence, and I'me afraid ever will, but he is rather willing to wrap it all up in Generalls, (*remembering that in universalibus latez dolus*) and yet truly he touches that also very gingerly, as if he was afraid least it should bite, as you shall see when we come to it, and then for this Judge to boast of his severity to *Radley* is such a strange piece of vanity, that one would admire he should have so little wit, (had he not been transported with furies envied) as to put it in the front of his flourishing harangue, I know not what it served for there, unless to put the Readers upon a fresh inquiry what severity the said *Radley's* Father had formerly met with, and how over powered and basely baffled out of his estate, and by whom all this was done; whether here was not more of an old grudge and inveterate malice than of Justice easily discern'd, and by this we may conclude that the Devil ow'd our Judge a shame, and hath infatuated him, to pay part of the debt.

But to his Injustitiary Speech in the beginning thereof he tells you what it seems he hath experimentally found true, that if once our Courts of Justice come to be swaid with vulgar noise [or suppose it be with a great some of 10000] and if Judges and Juries should manage themselves so as best comply with the humor of times, 'tis falsely said [and so indeed it was] that men are tried for their Lives, for Sir G. Wakeman was not but well for his fortune he might be, and therefore as the Judge truly says we find he lives by chance and enjoys what he hath as the Wind blows, well done Master Justice in the interim!

Next he brings in *Felix* who might indeed paralel him in a sordid complacency, only in this he unhappily and basely out-did *Felix*, in that he left *Paul* bound whilest this Justice unbound *Wakeman*; 'tis also true what our Justice says that the People ought to be pleas'd with publick Justice, but must they therefore be pleas'd with publick Injustice; or what a corrupt Judge either publicly, or privately though obtruding upon us the name of publick Justice.

He says more over that Justice should flow like a mighty stream, we see he can speak some truth though he acts but little, but let him tell us whether 10000 Guineys will not make a mighty Dam to stop this mighty stream, sometimes with some persons in some cases?

Now his Lordship would make us believe he will come particularly to the matter of *Wakeman's* Tryal, which he is not (as he says) neither afraid nor ashamed to mention, but by his leave I think he might, had he not added impudence to his wickedness, but intruth it appears he is so much ashamed of it that he immediatly runs from it, and handles it so tenderly as if he was afraid of it; for here all the sober understanding Men (which he has the face to appeal to) speaking generally did or might well expect his Lordship should have answered, some at least of those many objections made against him, and particularly vindicated himself from those too too palpable swarvings, and base biasings; and most partial proceedings, in that Tryal of *Wakeman's*, contrary to his own fence and carriage in all the other Tryals, taking it (as he bids us) as it is printed.

Why then did not his Lordship endeavor to satisfy all the understanding Men (he might have done it with as little pains if to be done at all) what he then made so many suppositions for, if not to lessen or to endeavor to bring a suspicion upon the Kings evidences, what could all those his *If's* signifie in this Tryal more then in the other, when then the same Person and the same evidence had been given before in them also, and that approved by himself too, and how now suspected? his Lordship then declared it satisfactory, and how come it unsatisfactory now? How come the tide to be thus turn'd, and the case all on a sudden thus strangely altered? Pray let his Lordship make a Speech that may indeed be somewhat of vindication to him if he can, and not tickle Mr. ticklefoot with a

flourish of words only, and tell us what his intention could be in using such Phrases as these, and how he comes to use them now and not before, and if honest now, where was his honesty in omitting them then? but as St. James saith, out of the same [Judges] mouth proceedeth blessing and cursing, my brethren these things ought not to be, doth a Fountain send forth at the same hole bitter Water and sweet?

Let his Lordship be presented with this Looking-Glass to see his Face, Or rather his False Heart in, viz.

In Coleman's Tryal.

P. 32. L. C. J. Asks of Mr. Oates; Did you not accuse Sir George Wakeman by name, and that he accepted his reward?

Mr. Oates, yes, then I did accuse him by Name.

L. C. J. Why did you not accuse Mr. Coleman by Name?

Mr. Oates, for want of Memory, being wearied out in sitting up Two Nights, I could not give that good account of Mr. Coleman, as I did after I had consulted my Papers, and when I saw Mr. Coleman was secur'd, I had no need to give further account.

P. 38. Sir Robert Southwell, Mr. Oates did declare against Sir George Wakeman, that 5000 l. was paid, in all 15000 l. and that Mr. Coleman paid Five of the Fifteen to Sir George in Hand.

L. C. J. This answers much of the Objection upon him.

P. 39. Coleman Objected, the charge was so slight against him by Mr. Oates, that the Counsel were not of Mr. Oates's opinion, revoked their order of sending me to Newgate, which surely says he they could not have done.

P. 40. L. C. J. It appears PLAINLY by this TESTIMONY that he did Charge you Mr. Coleman home, THAT 15000 l. WAS TO BE PAID FOR POYSONING THE KING, and that it was generally said, amongst them, though he did not see it paid) that it came by your Hands, viz. 5000 l. of it, which answers your Objection, as if he had not charged you, when you see he did charge you home then for being one of the Conspirators, in having in hand in paying of Money for POYSONING the KING.

P. 72. L. C. J. It's a hard matter to press a man to tell the precise day of the Month, but positively he doth say it was in August.

But his Lordship was not contented with this, but because he would make sure work for Sir George Wakemans delivery, he uses the other evidence (Mr. Bedloe) as basely in this Tryal, and therefore, p. 46. says L. C. J. to him, what is all this? Pray Mr. Bedloe stand up again we are now in the case of Mens lives, and pray have a care that you say no more than what is true upon any Man whatsoever? And again in p. 46. This just Judge would have mislead the whole Court and Jury, and belyed Bedloe to boot, telling them [Bedloe says now quite another thing then he said before] observe how ready may L. C. J. was to catch, that he snapt at it before 'twas ready, but the whole Court told his Lordship then [no he said the same before]

And then Mr. Bedlow told the L. C. J. the answer that Mr. Hartcourt gave to Sir George was that he should have the rest of the Money in due time, his Lordship turns it all off, with a but, what say you to Mr. Marshall? p. 47.

And when Mr. Bedlow immediatly in the Face of the Court, told the L. C. J. he had not rightly sum'd up his evidence, so gross was his partiality and apparent his wicked design, yet notwithstanding his good Lordship instead of summing it up right to the Jury (which surely an honest Judge that had not been biased would have done) basely curb'd Mr. Bedlow again, saying, p. 83. I know not by what authority this man speaks, as if our Judge was so dull that he did not know that the Kings Evidence speaks by the Kings Authority, and was not this bravely spoken from a Judge think you to the Kings witnesses (as in so Capital a case too as being hired to poyson the King) one while to taunt at them, and another while to curb them.

And if you do but observe his Lordships carriage in summing up the Evidence both at the one Tryal and the other, you will assuredly find it as different and contrary as white is to black, or as the Lord Chief Justice is sometimes, to Sir William at others.

Thus you may see the sober understanding Gentlemen, are so far from being satisfied with his Lordships proceedings at the Tryal, as he lately pretends he knows, that we know many of them are not satisfied at all, and others are very ill satisfied, but instead of giving them real satisfaction, he contents himself inventing his inveterate spleen against the poor Printers and Book-sellers and Hireling-Scribler, (as he tells them) who (he says) writes to ear, suppose they do, doth not his Lordship Judge to ear, and

In Wakemans Tryal.

P. 50. L. C. J. Tells the Court the question we be upon is Mr. Oates's Credit, how far the Jury will believe him, if Mr. Oates, Swear true.

P. 53. L. C. J. But Mr. Oates tells you if he says true.

Again P. 55. L. C. J. What must we be amuzed with I know not what for being up but Two Nights and deridingly what was Mr. Oates JUST so spent that he could not say, I have seen a Letter under Sir George Wakemans own Hand?

P. 56. L. C. J. It did not require such a deal of strength, to say I have seen a Letter under Sir Georges own Hand--- Again thus his Lordship cries, Mr. Oates, Sir George Wakeman wou'd it right, that he should not have been permitted his liberty so long, if you had charged him home then; to which it happens, that Mr. Oates gave his Lordship such an Answer, that it proved a choak Pear to him.

But his Lordship again curbs Mr. Oates, telling him, you have taken a great confidence, I know not by what Authority, to say any thing of any Body, and calls it a wild thing that was mentioned in a Letter of Sir G. Wakemans having accepted of 15000 l.

P. 82. & 83. L. C. J. Endeavors to blemish and blast Mr. Oates's Evidence all he could by telling the Jury, Oates makes an Answer, which to me is a very faint one--- Sir Thomas Doleman did indeed say Mr. Oates was very weak, so that he was in great confusion, and scarce able to stand, weigh it with you how you will, but to me 'tis no answer, let us not be so Amazed and Affrighted with the Noise of PLOTS as to take away any Mans Life, without any Reasonable Evidence, &c.



and to pay his debts to if he be grown so honest, for before he was created a Judge he had little Money or less honesty then to clear his old Scores, which his debaucheries run him unto for many years.

Since it appears he hath said so little to the purpose, and hath so little to say for himself, many admire he did not endeavor to clear himself by throwing it on the *Jury*, but he well knew if he should do so they would and might justly return'd it on his Lordship again, with a *why did you mislead us in your charge and so partially and so mincingly sum up the Evidence to us?* though the truth is the *Judges* fault will never be able to excuse the *Jury* in theirs.

But stay, it may be he thinks he does bravely with his solemn verbal *Declaration*, pretending it to be as sincere as if 'twas made at the *Holy Altar*, surely he learnt this way of the *Jesuits* he condemn'd, else thinking his might have as good fate as theirs amongst some, it seems by that sanctified Phraise of the *Holy Altar*, that if his Lordship is of any Religion, it favors somewhat of a Pope in his Belly, and so he might be kind to Sir George out of conscience as he affirms, doth he imagine that all his sober understanding men are such Children as to think, that that Person who made no conscience of so gross a Crime, should make any conscience of denying it, can we think any person that will steal or murder, should boggle at a lye and swearing to colour it?

First, let his Lordship answer the many protestations and declarations made by the *Jesuits*, at their Execution of their great Innocence, whom himself had past the Sentence of Condemnation upon, and tell us whether he believes their Solemn Protections (which are much fuller then his) to be true before we believe him in his, when our *Judge* hath extricated himself out of this dilemma, all the sober understanding men may be induced to give some credit to his *Declaration*, but to expect or bespeak it (as he does) before, is without sense or reason, since we with sad experience see such Declarations are as common in this age as committing the Crimes, and to speak my conscience I judge his Lordships Declaration is to near of kin to those of the *Jesuits*, because of the same complexion as with the like confidence wherewith it was done.

However at last our *Judge* is cautious, as fearing (or being conscious) he had done too much for some Papist thought fit to lay about him, and against them as the parting blow of his insignificant Speech, thereby to expiate his fault as upon the *Holy Altar*, and to make amends with the Protestants for his former miscarriages, yet I find its only talk against Priests and Jesuits, but not a word against Popish Doctors, however Sir Georges sudden flight (though by him acquitted) manifests he knew himself more guilty then his Lordship was willing to find, and would they had gone both together, however I hope he will not be long after unless he confess, repent, and amends, though he never can with his all make amends to the King, the Kingdom and Protestant cause, for his endeavoring to blemish and blast the Kings Protestant witnesses against Popish and Bloody Traytors, let this remain his Epitaph

Here lyes a *Judge* who'le Lye no more  
Nor game, nor drink, nor swear, nor whore  
Here lyes one, who ne're did take  
A bribe unless for *Wakeman's* sake  
The King's Protestant Evidence to blast  
And say there's scarce a Popish Plot at last.  
*Here lyes the Lord Chief Justice Scg*  
*A bribe for the De'e'l a Judge for's Hogs.*

To conclude, let us remark his Lordships carriage a little in his Examination, and imprisoning a considerable number of *Book-sellers* and *Scriblers* (as he Phraises them) which was with most severe menaces, and scurrilous threatnings and clinching his Fist at them, as many of the standers by observed, with such furious language that they likned him to a Bear robbed of her Whelps, he told them he would fill all the Goals with them; and pile them up like Faggots ('tis not to be doubted his Lordship meant in *Smithfield*) saying he would shew them no mercy, and he would order them as they order Boors in *France* (I hope his Lordship will be content with the same measure from a Supream Authority) so his Lordship had 2 witnesses that offer'd to make affidavit that one *Curtis* was dead, who is living at this present, but by this means his Lordship with a Bongrace sent the poor Woman (*Curtis* Wife) to Goal, for being a Mercury as they call them.

His Lordship was wonderful furious against the Booksellers, the reason he insisted on was, the Pamphlets was against him, a very good argument (but his Lordship seldom shews himself so fierce against those many Pamphlets, that daily come abroad in favor of Popery and a Popish Successor, only we must conclude they are not against his Lordship) among the rest his Lordship convey'd before him one *Smith* a *Book-seller*, for having some of the *Observations on Wakemans Tryal*, by *Tom Ticklefoot* in his Shop or Lodging, and here his Lordships carriage hapned to be most notorious, his Lordship asking the Messenger for the Witnesses, and he replying they are not come, the *Judge* runs into a great passion and fury, and tells the Messenger *Sarah! you have been conniving and tampering* (the *Judge* it seems thinks the Messenger like himself) and in this rage calls for a Bible and gives the Oath Sacred to this Fellow, to answer such questions as his Lordship should ask him, but the man not giving him such a quick answer as his Lordship expected; he with furious jestors fell a farrahing the said Messenger, with such strange motions that he seem'd more like one in *Bedlam* than like a *Judge*, sworn to equal distribution of Justice, reiterating that the Fellow had been tampering, as if our *Judge* knew 'twas impossible that any which was imploy'd about him, could escape learning to take a bribe, and in his Lordships next harangue, he will do well to acquaint us with the difference, betwixt suborning a witness or affrighting them with threats and menaces.

To this the said *Smith* pleaded, that if there were any such Books in his Lodging he knew not of their being there, and that possibly the person which own'd the Book sent them thither, and that the witness did not swear he sold any, therefore desired his Lordship to accept of Bail, and offered several Citizens there present for Bail which his Lordship ought in Justice to have granted, (see my Lord Cook of bail and mainprize) but our angry Judge would not accept of Bail, saying, as to others he would shew him no mercy, he had heard enough of him formerly, he should to Goal; such as he was the vermin o'th' Land, the one writ for money, and the other printed for money, and the Seller hoped for his gain, and so for a little Poultry Profit the Land's fill'd with Pamphlets, but he was resolv'd to make the said *Smith* spend some of the Poultry Profit, so it seemmeth the Pamphlet being against his Lordship, and a little Poultry Profit in a way of Trade was the crime; but we know not what would become of his Lordship, if men may not for a *GREAT DEAL* of *POULTRY PROFIT* (10000 l. or so) write, Print, or Judge for Money if it so happen.

Then the said *Smith* praid he might give Bail till Munday for several mighty reasons, which otherwise might indanger his ruin, and by that time he would endeavor to find out the Author, or else would surrender himself, but this *MERCIFUL JUSTICE* or *JUST JUDGE* refused, saying, he might take his *Habeas Corpus* and so ordered his *Mitimus* to be made, which for the ingenuity of it I thought fit to insert.

I herewith send you the body of *Francis Smith*, whom you are to keep in safe custody till he shall be discharged by due course of Law, oath being made before me that there was a great parcel of that Scandalous Libel seen in his House or Shop, call'd Observations on the Tryal of Sir George Wakeman.

Dated this 24th. of  
October 1579.

William Scrogs.

To Joseph Cooling Esq; Martial of the Kings Bench Prison,

And all this his Lordship did out of meer rancour and malice (in his own cause too) only to put the said *Smith* to the Charge of *Habeas Corpus*, and so keep him in Prison from Fryday till Tuesday, he being brought up to the Court at Westminster on Monday at great charge, and remanded because his Lordship would not stay (after a Tryal was over) to receive Bail which might be done in less then a quarter of an hour, but hurried out of the Court, giving occasion for us to reflect on him as he did on Mr. *Outes* in the Tryal of *Wakeman*, viz. surely his Lordship was not just so spent, that he could not stay the wrighting down 3 names, with the assumtiar, but the poor Man must to Prison again till next day to put him to another charge.

But how ingenious, equal or proper this was for any Man to be Judge in his own case, let any sober Reader Judge and seriously consider how fit such a Person is (as he hath displayed himself in his Colors) to sustain so great a place of Trust in this Kingdom, and for the future from such JUDGES and JUDGMENTS, good Lord bless us, with such a Parliament as was holden in the 25. of Ed. 3. and in the 11th year of Richard the 2d to deliver us.

## POST-SCRIPT.

The 25 of Edward the 3d; the King caused to be brought before him in full Parliament the record of Judgment (or sentence of death) against Sir William Thorp late LORD CHIEF JUSTICE, for taking of BRIBES contrary to his Oath, ---- the Parliament affirmed the Judgment to be right, see Cottons records, p. 74.

In the Parliament holden the Eleventh year of Richard the Second, Judgment of High Treason was given against Eighteen Persons, viz. Three Privy-Counsellors, the Arch-Bishop of York, the Duke of Ireland, the Earl of Northfolk, the Bishop of Exeter, the Kings Confessor, Five Knights, some of them of Eminent Quality and Noble Descent, Four of them was the Kings Servants, Six Judges, the Kings Serjeant at Law, the Kings Counsel Learned, the Under Sheriff of Middlesex, Eight of these Eighteen were Executed, that is, SIR ROBERT TRISILIAN LORD CHIEF JUSTICE OF ENGLAND, Five Knights, Blake of the Kings Counsel, and Vike the Under Sheriff, the Arch-Bishop, the Duke, and the Earl fled, the rest were Pardoned for their Lives, but Banished, and their Estate Forfeited, besides it was made Felony for any one to endeavor the procuring their Pardons; Fifteen of these Eighteen were Impeached by the Commons of England, as you may see at large in Baker, p. 145.